IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12003 of 2004

Between:
N.Rebert, S/o Christian,
R/o Gunupudi, Bhimavaram, West Godavari District
..... PETITIONER

AND

1 The Regional Joint Commissioner, Multi Zone-1, Endowments Department,
Kakinada, East Godavari District
2 The Assistant Commissioner, Endowment Department, Eluru, West Godavari
District
3 Sri Someswara Janardhana Swamy Temple, Gunupudi, Bhimavaram, West
Godavar District, rep.by its Executive Officer
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the notice R.O.C.No.49 dated 21-06-2004 issued by the 3rd respondent herein as illegal, arbitrary, unreasonable, null and void and without jurisdiction and opposed to the very spirit and object of the provisions of the A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003

Counsel for the Petitioner: MR.P.VINAYAKA SWAMY

Counsel for the Respondents 1 and 2: GP FOR ENDOWMENTS

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents 2 and 3 in rejecting the claim of the petitioner that he is entitled to continue as cultivating tenant in respect of Ac.7-70cents of the temple situated at Gunupudi, Bhimavaram Mandal, West Godavari District.

2. According to the petitioner, the second respondent rejected the claim of the petitioner without properly applying his mind in passing the order by filling up certain blanks in a pro-forma typed order. Further, the said order clearly shows that the second respondent did not apply his mind, and therefore, even on that ground, the impugned order is liable to be quashed. It is also stated that pursuant to the order dated 05-06-2004 of the second respondent, the third respondent issued auction notice dated 01-07-2004, putting for auction of the leasehold rights in respect of the lands belonging to the third respondent temple.

3. According to the learned Counsel appearing on behalf of the petitioner, there is a right of appeal before the Regional Joint Commissioner under the provisions of the

Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules'). But, denying the said right of appeal, the third respondent published the auction notice and is proceeding with the auction. Therefore, the petitioner has come up with the present writ petition.

4. Heard the learned Counsel for the petitioner and the learned Government Pleader for Endowments and considered the material on record.

5. The claim of the petitioner was rejected by passing a pro-forma typed order by filling the blanks, which clearly shows that the second respondent did not apply his mind. Further, as the appeal provision is made under the Rules, the petitioner is directed to approach the Appellate Authority-the Regional Joint Commissioner within a period of two weeks from the date of receipt of a copy of this Order and seek appropriate orders. Pending disposal of the appeal by the Regional Joint Commissioner, the third respondent herein is directed not to conduct the auction of the leasehold rights in respect of Ac.7.70 cents of land, which is in possession of the petitioner. If an appeal is filed by the petitioner the first respondent is further directed to dispose of the same expeditiously.

6. With the above directions, the writ petition is disposed of. No costs.

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13-07-2004

Note:
Issue C.C. by tomorrow.
(bo)

ghn/kvh

To

1 The Regional Joint Commissioner, Multi Zone-1, Endowments Department,
Kakinada, East Godavari District
2 The Assistant Commissioner, Endowment Department, Eluru, West Godavari
District
3 Sri Someswara Janardhana Swamy Temple, Gunupudi, Bhimavaram, West
Godavar District, rep.by its Executive Officer

4. Two C.Cs. to the Government Pleader for Endowments, High Court of A.P., Hyderabad.(o.u.t.)

5. Two CD copies